

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	02-0176
Implementation of P.A. 92-0529	:	
regarding alternative gas suppliers	:	

ORDER

By the Commission:

On February 8, 2002, the Governor signed P.A. 92-0529 into law, with an immediate effective date. The Public Act adds Article XIX, "Alternative Gas Supplier Law," to the Public Utilities Act. Article XIX requires the Illinois Commerce Commission ("Commission") to certify all alternative gas suppliers that serve or seek to serve residential natural gas customers. The Commission has 30 days after the effective date of P.A. 92-0529 to adopt an emergency rule applicable to the certification of alternative gas suppliers. Within 180 days after the effective date of the legislation, the Commission must adopt a final rule on the certification of alternative gas suppliers.

In a Staff Report dated February 22, 2002, the Staff of the Energy Division of the Commission provided support for the emergency adoption of 83 Ill. Adm. Code 551, "Certification of Alternative Gas Suppliers". These rules, which are similar to the Commission's rules for the certification of alternative retail electric suppliers (83 Ill. Adm. Code 451), establish a framework for the Commission's regulation of the entry into the field of residential retail sales. The rules set out the financial, technical, and managerial qualifications necessary for an applicant to receive certification and the corresponding filing, reporting, and record keeping requirements. The Staff Report notes that the Commission is under statutory mandate to adopt emergency rules within 30 days after the effective date of P.A. 92-0529. Given this mandate, the Commission is obligated to use the emergency rulemaking procedures of Section 5-45 of the Illinois Administrative Procedure Act in order to adopt rules within the 30 day time limit.

The Commission is of the opinion that the rules proposed by Staff and attached as the Appendix to this Order are supported by the Staff Report dated February 22, 2002. To comply with P.A. 92-0529, the Commission will adopt these rules on an emergency basis with an effective date of March 8, 2002 and also submit them to the Secretary of State as proposed rules to replace the emergency rules upon the completion of the rulemaking procedures mandated by Section 5-40 of the Illinois Administrative Procedure Act.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter herein;
- (2) the recitals of fact set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (3) the Commission should take administrative notice of P.A. 92-0529;
- (4) the rules designated as 83 Ill. Adm. Code 551, as reflected in the Appendix to this Order, should be adopted on an emergency basis pursuant to Section 5-45 of the Illinois Administrative Procedure Act and a Notice of Emergency Rules should be submitted to the Secretary of State pursuant to Section 5-45 of the Illinois Administrative Procedure Act;
- (5) the Notice of Proposed Rules for 83 Ill. Adm. Code 551, as reflected in the Appendix to this Order, should be submitted to the Secretary of State pursuant to Section 5-40 of the Illinois Administrative Procedure Act;
- (6) this proceeding should be a rulemaking and should be conducted as such and not as a contested case;
- (7) the Staff Report dated February 22, 2002 should be made a part of the record of this proceeding;
- (8) a copy of this Order should be served on each public utility supplying natural gas by pipeline.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the rules designated as 83 Ill. Adm. Code 551, as reflected in the Appendix to this Order, are adopted on an emergency basis pursuant to Section 5-45 of the Illinois Administrative Procedure Act, to be effective March 8, 2002, and that the Notice of Emergency Rules be submitted to the Secretary of State.

IT IS FURTHER ORDERED that the Notice of Proposed Rules for 83 Ill. Adm. Code 551, as reflected in the Appendix to this Order, be submitted to the Secretary of State pursuant to Section 5-40 of the Illinois Administrative Procedure Act.

IT IS FURTHER ORDERED that the Commission takes administrative notice of P.A. 92-0529.

IT IS FURTHER ORDERED that the Staff Report dated February 22, 2002 is made a part of the record of this proceeding.

IT IS FURTHER ORDERED that this proceeding is a rulemaking and shall be conducted as such and not as a contested case.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

IT IS FURTHER ORDERED that a copy of this Order be served on served on each public utility supplying natural gas by pipeline.

By order of the Commission this 27th day of February, 2002.

(SIGNED) Richard L. Mathias

Chairman

(S E A L)